The Quid Novi

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LETTER FROM THE EDITOR

Speaking Truth and Staying Kind

Pablo Mhanna-Sandoval | 2L

The Quid Novi team has worked tirelessly over the past weeks to provide the Faculty with a space to discuss Gaza. As you have likely seen online, tensions are high in Montreal. In this city and around the world, antisemitic and Islamophobic acts have seen dramatic increases. While more benign, disagreements on Gaza have nevertheless deteriorated. Social media has only worsened this climate.

As co-editor for the faculty's paper of record, I humbly call on us to stay cautious towards social media in this context. There are actors in the online space whose primary goal is purely destructive. Instead of advocating for peace and for the end of human suffering, they seek to demolish advocates of the "opposing camp." From tactics like public shaming, to spreading misinformation, to outright doxxing, this approach seeks to drive outrage, fear, and hate. It is the worst of contemporary political discourse and we are right as a community to reject it.

Inevitably, however, fear has affected McGill Law. Professors have heard from Jewish and Muslim students who feel unsafe on campus and in public. Many articles published in the Quid–particularly by advocates for Palestinian lives–have been submitted anonymously out of fear of professional repercussions. This fear is both understandable and devastating. When we fear speaking the truth, particularly when confronted with senseless human suffering like in Gaza, our community is poorer for it.

So let us be kind to each other. Let us respect each other's intelligence when discussing Gaza. Let us continue to reject social media's tendency to tear each other down in front of thousands of faceless spectators. And, if it compels us, let us continue to speak truth to power. The Quid team will continue its work to provide a constructive space to do so.

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WHICH ICONIC 1L CASE AT MEDLAW ARE YOU?

There are many ways to spend the night of MedLaw. Some of those recall the basic principles taught in introductory courses: negligence, breaking contractual obligations, and generally questionable and unreasonable behavior. So, which of these iconic 1L cases are you?[1]

Did you find a snail in your drink? You might be ***Donoghue v Stephenson***. A true Donoghue would not stand for this injustice. Establish that duty of care and get your compensation (which I hope is not another drink ticket).

Did you try bringing in a substance that got confiscated? You might be ***R v Malmo-Levine***. You tried to establish the harm principle, but it just wasn't one of the bouncer's principles of fundamental justice.

Did you set that dance floor on fire? You might be ***Axa Assurances c Groupe de Sécurité Garda***. I get that you want to ignite the dance floor to make yourself look good to a special someone, but don't do it literally.

Did you not go because MedLaw is 'a strange match made in elitist hell'?[2] You might be ***R v Big M Drug Mart Ltd***. Indulge that freedom of conscious (and religion) and think for yourself. Reject the whims of the party-going majority like Big M Drug Mart rejected the *Lord's Day Act* and spend the night your way.

Did you get a little too familiar with a GP? You cheeky devil might be ***R v Labaye***. So long your "acts were relatively private and did not degrade participants," you didn't turn the club into a common bawdyhouse. Congratulations.

Did you think this event was actually about medical malpractice? You might be ***Leonard v Pepsico***. Would a reasonable person conclude that a $18 wet ticket for entry to a club on St Laurent was actually about medical malpractice? Well, sorry for you and Leonard, but there is no AV-8B Harrier II vertical flying jet being offered, and there was nothing about medical malpractice.

Did you offer a stranger a hit of your vape? You might be ***Carlill v Carbolic Smoke Ball Co***. I hope you didn't promise them anything, otherwise you might be on the hook for a binding unilateral offer.

[1] While looking through past Quid issues, I came across an article by Meg Beattie titled 'Which Iconic 1L Case Are you?' While our executions are significantly different, I credit and thank her with the idea of using 1L cases for humour. Meg Beattie, "Which Iconic 1L Case Are You?", Quid Novi (1 Novemeber 2022) 14, https://dochub.com/quid-law/xgNyr6qwbkZo5kaRA5EbY2/quid-novi-vol-44-no-4?dt=jCBH-sA44EbyKs2UXWf-x&pg=13.

[2] See Nick Kramer, "The Opium of the Elites", Quid Novi (1 November 2022) 11, https://dochub.com/quid-law/xgNyr6qwbkZo5kaRA5EbY2/quid-novi-vol-44-no-4?dt=jCBH-sA44EbyKs2UXWf-x&pg=13.

The Pathy Foundation Fellowship

The Pathy Foundation Fellowship is an intensive 12-month experiential learning opportunity for graduating students to lead a self-directed project in a community they have a meaningful connection with. Fellows are provided with comprehensive training, personal and professional development coaching, up to $40,000 in funding, and wrap-around supports to design, plan, and implement an innovative project in their community. This year-long Fellowship is designed for students who show a demonstrated capacity and potential to develop and evolve as leaders and change makers and have a meaningful connection with a community of their choosing.

Applications for Cohort 9 of the Pathy Foundation Fellowship are open until January 5th, 2024! Visit https://linktr.ee/pathyfellowship to learn more and start your application today.

REFLECTING ON REMEMBRANCE

Alexandra Nash | 2L

As I write this, it is the 11th of November and I am pausing to reflect on lives lost. This is a plea: now more than ever, can we not at least agree to mourn innocents?

Surely no matter how deep our rifts of belief and ideology, no matter who we are or where we come from, the deaths of children are tragic. Surely each family torn apart by violence, whether ours or another's, warrants remembrance. Surely we are all human, and our lives are all precious.

I will keep wearing my white poppy every November, hoping that someday we will all lay down our weapons and live in peace.

MCGILL LAW COMPLICIT IN GENOCIDE

An anonymous collective of students

On October 12th, Principal and Vice-Chancellor Deep Saini expressed condolences for the devastating loss of Israeli life by Hamas.[1] Mirroring Principal Saini's statement, Dean Leckey's email to the McGill Law student body on October 13th conveyed empathy "for the many Jewish and Israeli members of the McGill Law community and all others who have lost loved ones."[2] Dean Leckey only referred to the loss of Palestinian life in a later email following student pressure, stating "I have been dismayed to learn that to some readers my message conveyed disregard for the intense suffering and loss of life among the Palestinians in Gaza. I regret any such effect."[3]

On November 1st, Principal Saini sent another email which this time acknowledged the loss of both Palestinian and Israeli lives. Yet the email took a falsely neutral stance, arguing that it lies "outside a university's mandate" to "weigh in on geopolitical crises around the world."[4] The McGill administration's stance overlooks the numerous ways that McGill University, including the Faculty of Law, is complicit in Israel's apartheid against Palestinians.

We carry grief for all lost lives —Israeli and Palestinian— as we write this piece. However, simultaneously, we firmly believe that such grief should not be weaponized as an excuse for colonial violence and genocide. **We write this piece to call attention to the McGill Facultyof Law's own role in the ongoing genocide of the Palestinian people.**

As the Canadian state continues to support Israel's military actions,[5] elite and powerful institutions like the McGill Faculty of Law are crucial to shoring up support for the ongoing atrocities. By refusing to take an oppositional stance, Canadian institutions are granting legitimacy to the ongoing genocide. Why can't the McGill Faculty of Law join others in the call for a ceasefire? Furthermore, why is the subject of Palestine so obviously and glaringly absent from our legal education when human rights organizations worldwide have condemned Israel's ongoing apartheid against Palestinian people?[6]

For years, the McGill Faculty of Law has neglected to adopt a just position against apartheid and to live up to its duty as a community of legal scholars to condemn human rights violations against Palestinians. It is then our ethical imperative as law students to ask, why is our Faculty so silent when legal scholars across the world have warned of genocide in Gaza?[7]

McGill Law and the Raoul Wallenberg Centre

We might begin to answer this question by considering the Faculty's International Human Rights Internship Program. In particular, the Faculty's relationship with the Raoul Wallenberg Centre for Human Rights (RWCHR) and its founder and International Chair, Irwin Cotler, is worth examining. The McGill Law Human Rights Internship Program has offered placements at the RWCHR for several

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[1] Deep Saini, "A call for compassion during divisive times | Appel à la compassion en ces temps de conflit" (12 October 2023), email.

[2] Robert Leckey, "FW: A call for compassion during divisive times | Appel à la compassion en ces temps de conflit" (13 October 2023), email.

[3] Robert Leckey, "My message of Friday afternoon" (16 October 2023), email.

[4] Deep Saini, "Upholding compassion, inclusivity, and respect | Pour un campus empreint de compassion, d'inclusivité et de respect" (1 November 2023), email.

[5] Prime Minister of Canada, "Prime Minister Trudeau Speaks with President of Israel Isaac Herzog," online (22 October 2023): https://www.pm.gc.ca/en/news/readouts/2023/10/22/prime-minister-justin-trudeau-speaks-president-israel -isaac-herzog; Canadians for Justice and Peace in the Middle East, "Canada's arms exports to Israel at the third-highest level on record, amid heightened violence," (12 June 2023), online: <https://www.cjpme.org/pr_2023_06_12_arms_exports>; This is nothing new, for the past decade, Canada has voted against at least 149 UN resolutions on Palestinian rights. The only country who has voted against more resolutions is the United States. See The Breach.

[6] Amnesty International, "Israel's Apartheid Against Palestinians" (1 February 2022), online: <https://www.amnesty.org/en/latest/campaigns/2022/02/israels-system-of-apartheid/>; Human Rights Watch, "Israeli Apartheid: 'A Threshold Crossed'" (19 July 2021), online: <https://www.hrw.org/news/2021/07/19/israeli-apartheid-threshold-crossed>; United Nations Under-Secretary-General and Executive Secretary of the UN Economic and Social Commission for Western Asia, "ESCWA Launches Report on Israeli Practices Towards the Palestinian People and the Question of Apartheid" (15 March 2017), online: <https://www.unescwa.org/news/escwa-launches-report-israeli-practices-towards-palestinian-people-and question-apartheid>; Mr. S. Michael Lynk, "Israel's 55-year occupation of Palestinian Territory is apartheid – UN human rights expert" (25 March 2022), online: <https://www.ohchr.org/en/press-releases/2022/03/israels-55-year-occupation-palestinian-territory-aparth eid-un-human-rights>; IJV Canada, "New Campaign Brings Canadians Together Against Apartheid in Israel" (21 March 2022), online: <https://www.ijvcanada.org/new-campaign-brings-canadians-together-against-apartheid-in-israel/>; International Human Rights Clinic - Harvard Law School, "Apartheid in the Occupied West Bank: A Legal Analysis of Israel's Actions" (28 February 2022), online: <http://hrp.law.harvard.edu/wp-content/uploads/2022/03/IHRC-Addameer-Submission-to-HRC-COI-Apart heid-in-WB.pdf>.

[7] Public Statement: Scholars Warn of Potential Genocide in Gaza, *Third World Approaches to International Law Review* (15 October 2023), online: <https://twailr.com/public-statement-scholars-warn-of-potential-genocide-in-gaza/>; "Gaza is 'running out of time' UN experts warn, demanding a ceasefire to prevent genocide," (2 November 2023), online: <https://www.ohchr.org/en/press-releases/2023/11/gaza-running-out-time-un-experts-warn-demanding-ce asefire-prevent-genocide>.

years, although upcoming 2024 internships are not yet confirmed.[8] In addition, the student-run Raoul Wallenberg Advocacy Group at McGill Law is an affiliate of the RWCHR.[9] In 2019, the McGill Faculty of Law bestowed Cotler (who is a Professor Emeritus of the Faculty) with an honorary doctorate, celebrating his "tireless devotion to human rights."[10]

According to the *Jerusalem Post*, Irwin Cotler is "one of the staunchest defenders" of Israel in the entire world.[11] Furthermore, Independent Jewish Voices (IJV) has described Cotler as "one of the leading proponents of the 'new antisemitism' concept, which seeks to label criticism of Israel as antisemitic."[12] This definition of antisemitism has risen to prominence through the International Holocaust Remembrance Alliance Working Definition of Antisemitism (IHRA-WDA).[13]

Over 104 civil society organizations have advocated against the adoption of the IHRA's definition of antisemitism, including Human Rights Watch and the American Civil Liberties Union, as well as numerous Canadian unions and faculty associations.[14] Opponents of the IHRA definition argue that it functions to shield Israel from legitimate critique, curtails freedom of speech, and suppresses the voices of Palestinians and Palestinian human rights advocates.[15] It also conflates Judaism with Zionism, which as some of our Jewish peers in last week's Quid reminded us, serves to erase the experience of Jewish community members who believe that their Jewish values and collective history teaches them to oppose apartheid, genocide, and oppression in all its forms, and calls on them to stand in solidarity with Palestinians.[16]

Cotler has played a significant role in advancing the IHRA definition of antisemitism to federal policy. For instance, at a town hall four years ago, Prime Minister Trudeau referred to Cotler when stating the Canadian government's position against the Boycott, Divestment, and Sanctions (BDS) movement for Palestinian rights.[17] Prime Minister Trudeau remarked that antisemitism is taking on the form of "a new condemnation or an antisemitism against the very state of Israel."[18]

Cotler's views on Israel are not limited to his stance as an individual. They are explicitly supported by the RWCHR. The RWCHR advocates for the IHRA definition of antisemitism and routinely publishes Cotler's speeches and articles that defend and support the state of Israel and equate critique of Israel with antisemitism.[19] In addition, the RWCHR honours public figures

[8] McGill Human Rights Internship Program Blog, "The Interns", online: <https://humanrightsinterns.blogs.mcgill.ca/about/#2022>. "International Human Rights Internships Program Application Package 2024," online (pdf): <https://www.mcgill.ca/humanrights/files/humanrights/2024-ihrip_application_package_3.pdf>.

[9] "Wallenberg Advocacy Group," online (Facebook group): <https://www.facebook.com/WallenbergGroup>; "Clubs Glossary 2022-23," online at 27: <https://docs.google.com/document/d/10NUwLDQfgmcZ2VyB-c8HYsI_It-gJYAnaceNdFFX9vG8/edit>.

[10] McGill Faculty of Law, "Irwin Cotler to receive honorary doctorate from McGill University," (29 May 2019), online: <https://www.mcgill.ca/law/channels/news/irwin-cotler-receive-honorary-doctorate-mcgill-university-29749 1>.

[11] Yaakov Katz, "Irwin Cotler: Human Rights Defender" (18 January 2019), online: <https://www.jpost.com/opinion/the-human-rights-defender-irwin-cotler-577836?ref=readthemaple.com>.

[12] Independent Jewish Voices, "Celebrate Irwin Cotler's Birthday by Making a Donation to IJV!" (27 April 2023), online: <https://www.ijvcanada.org/happybirthdayirwin/>; Independent Jewish Voices, "IJV Deeply Troubled by Irwin Cotler's Appointment as Special Envoy on Combatting Antisemitism" (25 November 2020).

[13] International Holocaust Remembrance Alliance, "About the IHRA non-legally binding working definition of antisemitism," online: <https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antis emitism>.

[14] Human Rights Watch et al., "Human Rights and other Civil Society Groups Urge United Nations to Respect Human Rights in the Fight Against Antisemitism" (4 April 2023), online: <https://www.hrw.org/news/2023/04/04/human-rights-and-other-civil-society-groups-urge-united-nations-r espect-human>; Al Jazeera, "Rights groups urge UN not to adopt IHRA anti-Semitism definition" (4 April 2023), online: <https://www.aljazeera.com/news/2023/4/4/rights-groups-urge-un-not-to-adopt-ihra-anti-semitism-definition>; No IHRA, "Academic campaign," online: <https://www.noihra.ca/academic-campaign>.

[15] Human Rights Watch et al., "Human Rights and other Civil Society Groups Urge United Nations to Respect Human Rights in the Fight Against Antisemitism" (4 April 2023), online: <https://www.hrw.org/news/2023/04/04/human-rights-and-other-civil-society-groups-urge-united-nations-r espect-human>.

[16] McGill Law Jewish Students and Alumni, "McGill Law Jewish Students and Alum Stand in Solidarity with Palestine," *The Quid Novi*, 45 (5) at p 11, online: <https://dochub.com/quid-law/oGZeMNnwXOmqWkoVQvbrYd/qn-vol45-no5-1-pdf?dt=KfGKhFmUMdPeu G_3dhkx>.

[17] The Centre for Israel and Jewish Affairs, "Trudeau on BDS at Brock University Town Hall" (16 January 2023) at 00m:39s, online (YouTube): <https://www.youtube.com/watch?v=xvAGXxa05zo>.

[18] *Ibid* at 00m:30s.

[19] "Irwin Cotler receives Israeli Presidential Medal of Honor" (8 September 2023), online: <https://www.raoulwallenbergcentre.org/en/news/2023-09-08>; "RWCHR Statement: The National Summit on Antisemitism" (23 July 2021), online: <https://www.raoulwallenbergcentre.org/en/news/2021-07-23-2?highlight=WyJhbnRpc2VtaXRpc20iXQ== >; "Leaders From Over 50 Countries Gather Today For The Malmo Forum On Holocaust Remembrance And Combatting Antisemitism" (14 October 2021), online: <https://www.raoulwallenbergcentre.org/en/press-releases/2021-10-14?highlight=WyJpaHJhIiwiaWhyYSd zIl0=>; "Statement from Canada's Special Envoy on Preserving Holocaust Remembrance and Combatting Antisemitism Regarding New Reports Documenting Alarming Rise in Hate Crimes Against Jews" (19 April 2021), online: <https://www.raoulwallenbergcentre.org/en/news/preserving-holocaust-remembrance-and-combatting-anti semitism?highlight=WyJpaHJhIiwiaWhyYSdzIl0=>; "Message from the Special Envoy on the Occasion of Yom Ha'Atzmaut" (26 April 2023), online: <https://www.raoulwallenbergcentre.org/en/news/2023-04-26-1?highlight=WyJpc3JhZWwiLCJpc3JhZWw ncyJd>; "Statement by the Honourable Irwin Cotler, Canada's Special Envoy on preserving Holocaust Remembrance and Combating Antisemitism on the Withdrawal from Durban IV" (20 October 2021), online: <https://www.raoulwallenbergcentre.org/en/

LE QUID EST À LA RECHERCHE DE CHRONIQUEURS FRANCOPHONES

NOUS RECHERCHONS DES CHRONIQUEURS ET CHRONIQUEUSES FRANCOPHONES POUR SE JOINDRE À NOTRE ÉQUIPE! LES CHRONIQUEURS ET CHRONIQUEUSES SONT RESPONSABLES DE LA SOUMISSION RÉGULIÈRE DE CONTRIBUTIONS AU QUID. C'EST UN POSTE IDÉAL POUR PRATIQUER VOS COMPÉTENCES EN ÉCRITURE OU VOTRE LANGUE SECONDE ET PEUT-ÊTRE ACQUÉRIR UNE CERTAINE NOTORIÉTÉ AUPRÈS DE VOS CAMARADES DE CLASSE!

VOUS AVEZ SEULEMENT BESOIN DE CONTRIBUER UN ARTICLE AU QUID À CHAQUE TROIS SEMAINES.
SI ÇA VOUS INTÉRESSE, ENVOYEZ UN COURRIEL À QUID.LAW@MCGILL.CA .

who have horrific track records against Palestinian human rights.

For example, one of the RWCHR's listed honorary co-chairs, Meir Shamgar (in memoriam), has been key to the architecture of apartheid in Palestine. He has been hailed as "one of the 'founding fathers' of the Israeli legal system."[20] Shamgar served in the Israel Defense Forces (IDF) in 1948, the year of the Nakba.[21] After serving as the Military Advocate General of the IDF, he was appointed as Attorney General for Israel and later as President of the Israeli Supreme Court.[22] Israeli human rights lawyer Michael Sfard describes Shamgar as the "judge who designed the legal foundations of Israel's occupation."[23] During Shamgar's tenure, he handed down ruling after ruling "to establish Israeli control over the occupied people and their land for generations."[24]

Natan Sharansky, a co-chair of the RWCHR according to their mission statement,[25] has also upheld Israel's occupation of Palestine. In his role as Israel's Minister for Jerusalem and Diaspora Affairs, Sharansky chaired a secret committee that approved the confiscation of East Jerusalem property from West Bank Palestinians; the decision was later reversed following local and international outcry.[26] In 2005, Sharansky quit cabinet in protest of the Prime Minister's plans to withdraw Israeli settlements from the Gaza Strip, arguing it would invite further "conflict" and "terrorism."[27] He is also the chairman of One Jerusalem, an organization whose mission is to maintain Jerusalem "under Israeli sovereignty … as the united capital of Israel."[28] Furthermore, as the former head of the Jewish Agency for Israel, Sharansky initiated the program Israeli Fellows on Campus, which "sent hundreds of young Israelis to fight BDS and Anti-Israel propaganda on American campuses."[29]

Since Hamas' attacks on October 7, 2023, the RWCHR has centered its calls for action around the release of Israeli hostages and combating the rise of antisemitism.[30] The Centre also recently announced that it will be representing some of the families of those taken hostage by Hamas.[31] However, to

news/2021-09-20?highlight=WyJpc3JhZWwiLCJpc3JhZWwnc yJd&fbclid=IwAR19sQna2J5kxxO1zQvlTq4yL3w3YcAp-juprQE-k0rnuU0HZniPKEVY8mY>; for context of last source, see "Canada boycotting events marking UN anti-racism conference over concerns about anti-Israel statements" (6 May 2023), *CBC News*, online: <https://www.cbc.ca/news/politics/canada-durban-israel-peace-conference-1.6016670?fbclid=IwAR0S_pF rhKSjGi4Y2O_cUnzydvsSseUzMwsJN_U545FEknuejI54osNQZLU>.

[20] "Former Supreme Court president Meir Shamgar, Israeli judicial giant, dies at 94," (19 October 2019), online: <https://www.timesofisrael.com/former-supreme-court-president-meir-shamgar-dies-at-94/>.

[21] The Genesis Prize, "Meir Shamgar z" (1925-2019), Founding Member of the Prize Committee," (accessed 2 November 2023), online: <https://www.genesisprize.org/about/leadership/meir-shamgar>.

[22] *Ibid*.

[23] Michael Sfard, "The judge who designed the legal foundations of Israel's occupation," *+972 Magazine* (24 October 2019), online: <https://www.972mag.com/shamgar-supreme-court-israel-occupation/>.

[24] Michael Sfard, "The judge who designed the legal foundations of Israel's occupation," *+972 Magazine* (24 October 2019), online: <https://www.972mag.com/shamgar-supreme-court-israel-occupation/>.

[25] "Our Mission Statement", (accessed 2 November 2023), online: <https://www.raoulwallenbergcentre.org/en/pursuing-justice/mission-statement>.

[26] Nonna Gorilovskaya, "The Dissident: An Interview With Natan Sharansky," *Mother Jones*, (30 March 2005), online: <https://www.motherjones.com/politics/2005/03/dissident-interview-natan-sharansky/>; Editorial Staff of the Institute for Palestine Studies, "Jerusalem Land Grab Schemes and the Democratic Credentials of Natan Sharansky," *Jerusalem Quarterly* 22/23, online: <https://www.palestine-studies.org/en/node/77815>; Greg Myre, "Israel Revokes Decision on East Jerusalem Land," *The New York Times*, (2 February 2005), online: <https://www.nytimes.com/2005/02/02/world/middleeast/israel-revokes-decision-on-east-jerusalem-land.html>.

[27] The Irish Times, "Sharansky resigns from Israeli cabinet over Gaza," (3 May 2005), online: <https://www.irishtimes.com/news/sharansky-resigns-from-israeli-cabinet-over-gaza-1.437127>.

[28] The Jewish Agency for Israel, "Natan Sharansky - Honorary Member of the Board of Governors," (accessed 2 November 2023), online: <https://www.jewishagency.org/natan-sharansky/>; One Jerusalem, "About One Jerusalem," (accessed 2 November 2023), online: <https://onej.org/about-us/>.

[29] "ISGAP Welcomes Natan Sharansky as Chair" (1 April 2019), online: <https://isgap.org/post/2019/04/isgap-welcomes-natan-sharansky-as-chair/>; Janice Arnold, "Sharansky slams 'delegitimization' of Israel" *The Canadian Jewish News* (11 December 2011), online: <https://thecjn.ca/news/sharansky-slams-delegitimization-israel/>.

[30] See e.g. "Video | CBC Power & Politics: Irwin Cotler Warns of Global Rise of Antisemitism After 7 October Hamas Attack" (16 October 2023), online: <https://www.raoulwallenbergcentre.org/en/news/2023-10-16-2>; "Opinion | In this moment of division, let's unite to push for the release of the hostages in Gaza" (23 October 2023), online: <https://www.raoulwallenbergcentre.org/en/news/2023-10-23>; "Urgent Appeal For Hostages Requiring Medical Attention Under Hamas Captivity" (11 October 2023), online: <https://www.raoulwallenbergcentre.org/en/news/2023-10-11-2>; "Opinion | Noah Lew: Those who celebrate unspeakable horrors committed against Israelis must be held accountable" (11 October 2023); <https://www.raoulwallenbergcentre.org/en/news/2023-10-10>.

[31] "Press Release | Raoul Wallenberg Centre for Human Rights, Representing Families of Hostages Held by Hamas, to Visit Ottawa and Appeal for Action" (30 October 2023), online: <https://www.raoulwallenbergcentre.org/en/news/2023-10-30>.

our knowledge, the RWCHR has been silent on Israel's war crimes against Palestinians, including its bombings of a hospital, schools, and a refugee camp; its use of white phosphorus in Gaza and Lebanon; and its siege on Gaza which has cut Gazans off from food, water, electricity, fuel and humanitarian aid.[32] To date, the Centre has not referred to the concurrent rise of Islamophobia as a result of the escalations of violence in Gaza and the occupied territories, or to the 10,000 Palestinians held hostage as detainees in Israel's jails and detention centres.[33] Nor has the Centre called for a ceasefire or an end to Israeli occupation.

Advocating against genocide has been a primary part of the RWCHR's work. However, ending Israel's genocide of Palestinians does not appear to be part of the organization's vision of justice. In fact, the Centre helps strengthen Israel's global power, allowing the state to get away with decades of apartheid and to advance genocide.[34] While not all McGill Law students involved in the RWCHR's work are necessarily aware of the Centre's stance on Israel and may not espouse these views, the RWCHR's connections to the McGill Faculty of Law nevertheless testify to the prevalence of pro-Israel propaganda on our campus, even when it works behind the scenes.

We shouldn't be clerking at the Israeli Supreme Court – The BDS Movement and McGill Law

The McGill Faculty of Law also maintains direct ties with Israel through the Centre for Human Rights and Legal Pluralism's 3-month Clerkship at the Supreme Court of Israel.[35] Such an academic relationship is specifically denounced by the Palestinian-led Boycott, Divestment and Sanctions (BDS) movement.

Boycotts have long been a powerful tool for challenging injustice. This is especially evidenced by the pivotal role boycotts played in dismantling South African apartheid.[36] Inspired by this precedent, Palestinian organizers too have called on supporters to boycott, divest, and sanction the apartheid state of Israel. BDS, in its website's words, "upholds the simple principle that Palestinians are entitled to the same rights as the rest of humanity."[37]

The BDS movement calls for boycotts of study abroad programs in Israel. It characterizes these programs as "part of the Israeli propaganda effort, designed to give international students a 'positive experience' of Israel, whitewashing its occupation and denial of Palestinian human rights."[38] BDS further calls for a boycott of research and development opportunities among the Israeli government and other institutions.[39] McGill's partnership with the Supreme Court of Israel, which plays a major role in legitimizing Israeli apartheid, falls into both of these BDS categories.

The Supreme Court has approved the destruction of entire Palestinian villages and upheld "countless" administrative detention orders, the withholding of "Palestinians' bodies for use as bargaining chips," the 2018 "nation state law" which has been central to Israeli apartheid, and "arbitrary, racially-motivated restrictions on Palestinian family unification."[40] Amnesty International states:

> It's impossible to talk about Israel's judiciary without highlighting its ongoing role in enforcing and maintaining apartheid against Palestinians. Over the years, the Supreme Court has issued numerous rulings which paved the way for the Israeli government and military to commit human rights violations against Palestinians.[41]

It is also worth drawing attention to the ways that McGill University more broadly has ties and partnerships with the Israeli state that should also be boycotted—including

[32] Mohammed R Mhawish, "'Why bomb schools?' Gaza families have no safe space amid Israeli attacks," Al Jazeera (10 October 2023), online: <https://www.aljazeera.com/features/2023/10/10/why-bomb-schools-gaza-families-have-no-safe-space-a mid-israeli-attacks>; "Israel confirms it struck Jabalia refugee camp; Gaza health official says dozens killed" (31 October 2023), online: <https://www.cbc.ca/news/world/israel-hamas-war-gaza-1.7013540>; "Israel: White Phosphorus Used in Gaza, Lebanon" (12 October 2023), online: <https://www.hrw.org/news/2023/10/12/israel-white-phosphorus-used-gaza-lebanon>; "Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza" (20 October 2023), online: <https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wip e-out-entire-families-in-gaza/>.

[33] Perry Stein and Devlin Barrett, "Threats to U.S. senator amid spike in anti-Jewish, anti-Muslim activity," *The Washington Post* (30 October 2023), online: <https://www.washingtonpost.com/national-security/2023/10/30/fbi-threats-jewish-muslim-antisemitic/>; Zena Al Tahhan, "Israel doubles number of Palestinian prisoners to 10,000 in two weeks," *Al Jazeera* (21 October 2023), online: <https://www.aljazeera.com/features/2023/10/21/number-of-palestinian-prisoners-in-israel-doubles-to-100 00-in-two-weeks>.

[34] Ed Pilkington, "Top UN official in New York steps down citing 'genocide' of Palestinian civilians," *The Guardian* (31 October 2023), online: <https://www.theguardian.com/world/2023/oct/31/un-official-resigns-israel-hamas-war-palestine-new-york>.

[35] "International Clerkships Program", online: <https://www.mcgill.ca/humanrights/clinical/clerkships>.

[36] Chris McGreal, "Boycotts and sanctions helped rid South Africa of apartheid – is Israel next in line?", The Guardian (23 May 2021), online: <https://www.theguardian.com/world/2021/may/23/israel-apartheid-boycotts-sanctions-south-africa>.

[37] "What is BDS?", online: <https://bdsmovement.net/what-is-bds>.

[38] "Academic Boycott," online: <https://bdsmovement.net/academic-boycott#guidelines>.

[39] *Ibid*.

[40] Defending the rule of law, enforcing apartheid – the double life of Israel's judiciary" (13 September 2023), online: <https://www.amnesty.org/en/latest/news/2023/09/defending-the-rule-of-law-enforcing-apartheid-the-doubl e-life-of-israels-judiciary/>.

[41] *Ibid*.

exchange programs,[42] the stocking of Israeli products which have been connected to the apartheid regime in our cafeterias,[43] and investment in companies which work directly with the Israeli army.[44]

Conclusion

We would be bereft to not mention that we were forced to write anonymously as a result of the doxxing and blacklisting of student advocates who support Palestine, including in the legal profession. We believe that the McGill Faculty of Law's messaging and partnerships only make it more difficult to publicly share such views. We write this in solidarity with students, staff, and faculty members who are courageously supporting Palestinian liberation. We conclude by turning to Michael Sfard who reminds us:

> There is no solution to the conflict in Israel-Palestine that is not based on respecting everyone's human rights; on ending the occupation; ending apartheid; ending the blockade; realizing the right to self-determination of the Palestinian people; and upholding the provisions of international law, by all.[45]

As the number of Palestinians killed by Israel reaches over 9,000,[46] and as voices around the world call for a ceasefire to stop the ongoing genocide, we need all institutions to take a strong stance against Israeli apartheid and occupation. A continued failure to do so by those at the McGill Faculty of Law will cement the institution's position on the wrong side of history.

[42] McGill Abroad, "Ben-Gurion University of the Negev," (accessed 2 November 2023), online: <https://www.mcgill.ca/mcgillabroad/go-abroad/steps/destinations/bgu>; McGill Abroad, "Hebrew University of Jerusalem," (accessed 2 November 2023), online: <https://www.mcgill.ca/mcgillabroad/go-abroad/steps/destinations/hebrew-university-jerusalem>; McGill Abroad, "Technion-Israel Institute of Technology," (accessed 2 November 2023), online: <https://www.mcgill.ca/mcgillabroad/go-abroad/steps/destinations/technion-israel-institute-technology>; McGill Abroad, "Tel Aviv University," (accessed 2 November 2023), online: <https://www.mcgill.ca/mcgillabroad/go-abroad/steps/destinations/tel-aviv>.

[43] Adam Benzaari, Kareem Abuali, and Sepideh Afshar, "McGill needs to boycott Sabra—for real this time," (22 November 2022), online: <https://www.thetribune.ca/opinion/mcgill-needs-to-boycott-sabra-for-real-this-time-11212022/>.

[44] McGill, "U.S. Equities Above $500,000 Publicly Traded and Held in Segregated Accounts (in Cdn $)," (30 June 2023), online: <https://www.mcgill.ca/investments/files/investments/us_equities_1.pdf>; BDS, "Boycott HP," (accessed 2 November 2023), online: <https://bdsmovement.net/boycott-hp>.

[45] Michael Sfard, "War Crimes by Hamas Don't Allow Israel to Disregard the Laws of War," (16 October 2023), online: <https://dawnmena.org/war-crimes-by-hamas-dont-allow-israel-to-disregard-the-laws-of-war/>.

[46] AP News, "Israeli troops advance toward Gaza City as the Palestinian death toll rise above 9,000," (2 November 2023), online: <https://apnews.com/article/israel-hamas-war-gaza-news-11-2-2023-6a398d4aeba979aef24960efc31eb7 7>.

I'M REMOVING THE WORD TERRORIST FROM MY VOCABULARY

Alanna Molzahn | 3L

I'm removing the word "terrorist" from my vocabulary.

Because no language is neutral.

Because Nelson Mandela, ender of South African apartheid, was on a terror watchlist until 2008.

Because the Black Panthers, who organized a free breakfast program and sponsored schools, legal aid offices and health clinics, were deemed the greatest threat to the internal security of the U.S.

Because after 9/11, "terrorist" became a racial slur, spat at anyone who looked like they could be Arab or Muslim.

Because the word "terrorist" has been used to facilitate colonial expansion into the Middle East.

Because the United States gets to commit atrocities in the name of the "War on Terror" not only with impunity, but with celebration.

Because Obama received a Nobel Peace Prize, yet continued to authorize drone strikes, murdering approximately 3,797 people in his time as president.[1] Turns out he's just really good at killing people.[2]

Because the victims of the War on Terror have predominantly been civilians and children, and continued Western intervention leaves the Middle East in a constant state of instability.

Because with their dying breaths, Palestinian civilians are asked to condemn Hamas.

Because they are not afforded humanity unless they do so,

Even though Israel drops bombs on their hospitals, their mosques, and their refugee camps,

Killing 11,000 people and counting.

I am removing the word "terrorist" from my vocabulary,

Because anyone who fights to end their oppression by the State is called a terrorist,

And unless "terrorist" is used to describe colonial nation-states who brutalize innocent men, women, and children in their quest for wealth and power,

It has no meaning.

[1] https://www.cfr.org/blog/obamas-final-drone-strike-data

[2] Referring to a quote in Double Down: Game Change 2012 by Mark Halperin and John Hellemann, in which Obama is quoted as saying, "Turns out I'm really good at killing people."

AN ODE TO FEMME BODIES

Carla Arbelaez | 4L

While watching Chanelle Lajoie's *Métis Femme Bodies* and other short films at the last Eating Popcorn Like a Lawyer event, I was reminded of the beauty of creating for the sake of creating, and the added beauty that comes with creating from a place of relationship. Today, artists operating under the pressures of an individualist understanding of art—one in which artistic value is found in creating something distinct and never seen before—are likely to feel disillusioned by the fact that there is nothing new under the sun. Under a relational theory of art, there is in fact comfort and warmth in knowing that it is through interactions with others that art can be imagined and take on many forms. If I had not watched Métis Femme Bodies nor heard Chanelle's reflections on what it means for them to embody their identity in the flesh, in visuals, and in language, I would not have been moved to create art myself. I was influenced. My perspective on femme bodies was molded by other perspectives and I was happy to receive this gift.

What was most captivating to me about *Métis Femme Bodies* was that while these bodies were on display, there was no sense of performance in their movements. They simply were. You could not help but feel the simultaneous comfort and discomfort of being within a femme body. The fidgeting, the itching, the self-conscious touching, the adjusting of underwear, the shifting in weight between worn feet; they reminded me of what it feels like to live with myself in the body I was born into. The discomfort far outweighs the comfort when you add the expectations that come with being with others in a gender-normative world. To have a femme body under the watchful eyes of patriarchal expectations is to be made responsible for hiding period cramps, taking on onerous contraceptive measures, and self-grooming beyond the needs of hygiene. Racialized expectations contort these expectations even further, making the simple act of being an even more burdensome task. As a Latin American woman, I am forced to interact with others who have internalized narratives of what my body should look like and how I should carry myself within it. I refuse to type these expectations because the mere thought of reflecting them through my body makes me want to crawl out of my own skin. Films like *Métis Femme Bodies* are my saving grace. For a short time, my mental palate is cleansed of how my body is expected to be, and I am consoled that it can just be. I thank Chanelle for their ability to remind me of this simple truth through beautiful visuals and dialogues.

As a last note, this event overlapped with a vigil for the fallen Palestinian victims of Israel's indiscriminate bombings of Gaza. Given that I was not present at the vigil, I wish to dedicate this piece as a special ode to the girls and women who are represented amongst those who lost their lives to these acts of state violence. My personal experiences as a woman cannot begin to compare to those of girls and women whose bodies are subjected to the horrors of mass violence.

To add another poem to the beautiful ones shared by Weeam Ben Rejeb in the October 31st issue of the Quid Novi:

"Hamza"
by
Fadwa Tuqan

My sister, our land has a throbbing heart,
it doesn't cease to beat, and it endures
the unendurable. It keeps the secrets
of hills and wombs. This land sprouting
with spikes and palms is also the land
that gives birth to a freedom-fighter.
This land, my sister, is a woman.

OVERHEARD

3L to prof: But did the SAO pinky promise?

Prof: The devil is in the detail, but the holy spirit too perhaps.

THE MYTH OF HOMOGENEITY IN LAW STUDENT PERSONALITY TYPES

Because Not Everyone Can be (Type A)-mazing

Sophie Rehel | 1L

This past month, I attended an insightful and useful lunch and learn session offered by two seasoned professionals in the legal world. Kindly, they came prepared with a carefully curated list of tips and tricks for improving your skills as a legal advisor beyond a mere academic grasp of the law itself. One of these tips touched on the importance of developing a sense of awareness towards how your personality may interact with those of the team members you work with. Some people are particularly abrasive and direct, while others tend to be more soft-spoken or reclusive. While this may not be obvious to everyone, clashes between socialization styles can act as barriers to efficient teamwork, communication, and social harmony. Despite agreeing with all of this, I began to question the notion that law students and lawyers are all 'Type A' personalities.

If someone asked you to describe the typical lawyer, the first traits to come to mind would likely be a carbon copy of the 'Type A' personality: competitive, result-oriented, overachieving, outgoing, status-conscious, proactive, etc. The pre-conception is often that law school is like a tournament of sorts; everyone is competing with one another for the best grades, social image, internships, and post-grad jobs. Although I can't speak for any other cohorts, this has not been my experience. Whether it be through sharing notes with sick classmates, covering lunch when someone is hungry but tight on money, sharing access to a particularly expensive textbook, or scouring the internet for a more legible format of an assigned reading - our law students seem to diverge from 'Type A' much more than we are given credit for.

Ironically, many of my conversations with fellow law students have revolved around a shared fear of lacking traits associated with 'the' law school personality. A number of us are worried about our tendency to be introverted, nervous to raise a hand in class, and inclined towards a more passive, non-argumentative demeanour. We find ourselves perpetually measuring our assertiveness against this perceived archetype, constantly comparing how we stack up against our classmates in the personality hierarchy. Young law students are constantly grappling with the pervasive nuisance of imposter syndrome, a phenomenon that can be particularly intense in such a demanding and competitive environment. Faced with weighty expectations, the need to rapidly absorb massive amounts of complex information, and the presence of so many capable and impressive colleagues, students may doubt their abilities and fear being exposed as unprepared or undeserving of their place. This can manifest in overcompensation - a frantic effort to conform to the stereotype of the ambitious and assertive law student. In their quest to validate their presence, these students may take on excessive workloads, engage in unnecessary competition, or falsely adopt a persona that aligns with the traditional notion of a successful lawyer.

So, is there truly an overarching personality standard that needs to be met, or have we invented yet another imaginary set of expectations to hold ourselves to? The range of personalities within legal workplaces and educational institutions is far too varied to be confined to one rigid box. The emergence of an increasingly cooperative and supportive atmosphere within law school cohorts proves that while they may have remained true at one point or another, these stereotypes are slowly changing. It is important to note that while we discuss the myth of a stereotypical lawyer personality, this is in no way meant to diminish the value of our assertive, competitive, and driven colleagues. The diversity of personalities is not a call for homogeneity, but rather an acknowledgment that the richness of our community lies in the variety of approaches and perspectives that it was intentionally crafted to have.

MEME ROUND UP

Send us your memes!

AUDI ALTERAM PARTEM

Darren Rosenblum | 3L

Every day I come to work, I walk up Stanley, not Peel. It's a gentler slope, and takes me straight to my office. As I walk in New Chancellor Day Hall, I see "*Audi Alteram Partem*." Listen to the other side.

Somehow, this dictum has become the defining lesson of my first years at McGill. I joined the faculty in the fall of 2021, still in the throes of the pandemic. Each of my colleagues is brilliant. But in my first year here, I met my colleague Aaron Mills, and was inspired to read an interview he did that delineates part of his reading of an Indigenous pedagogy. Basically it is this: when we seek to learn together we must sit in a circle so that we can see each other, speak to each other and listen to each other. We look at each other's faces and learn from their faces as well as their voices. Looking at each other and being seen by each other matters.

The artist Marina Abramović, in one of her works, sits in a chair and invites a visitor to the art gallery or museum to sit in the chair facing her. No words are exchanged, and the duration of this exchange of glances can be short or long. It is always, without exception an emotional connection, sometimes moving people to tears.

We cannot help but emphasize that emotional connection when looking at each other. When we're in a circle, we see each other. The circle facilitates our empathy.

After I read this piece, I was able to switch my class to a circular seating arrangement. Class participation went from 1/4 speaking to 3/4. I have continued to teach there, and I continue to find high levels of participation. People speak more because they trust each other more. They see each other as humans.

Again, let's return to this: *Audi alteram partem*: "Listen to the other side." I try to reflect on that every time I enter this building. To remember to listen. Society needs lawyers more than ever because we consider all points of view. I must especially because of my administrative role, but also because I am a professor. Beyond those professional roles, I listen because I care. I don't always do so and not always as much as I can, but I try. What would the world look like if we each did this?

Sometimes, I try to listen even when it seems there is nothing to listen to.

One of my favorite things about McGill is going for a walk in Mont Royal. Sometimes I just listen. I listen as I walk. Or I sit down and listen: I hear the trees. I hear people walking by. I hear the interaction of the city sounds with those of the park. Almost without exception, I find it immensely healing.

Our community matters most. By "our community," I mean those of us who teach, learn, and work within the law faculty. I came to McGill after teaching full time for 17 years elsewhere. I came here because when I visited for a semester in 2018 I finally felt comfortable enough to be myself and to wear women's clothes most of the time. Something about this community made me feel safe, and it wasn't just that the dean was openly gay and worked on LGBT rights his entire career. It was also how people within the law faculty behaved. They were and are mostly supportive, agile, respectful, careful, funny, playful, warm, and open-minded. It felt like a very safe space to be whoever you are – not perfect but infinitely more inclusive than any other law faculty I've seen. It may be something about the fundamentally bilingual nature of our institution. Or it could be the effect of transsystemia. But I think a big part of it is the size of our institution. It is small. We know each other – period. No one is invisible in this building. None of us is simply a number. The anonymity of the online world is absent. We are each accountable to each other within our community. Communicating with sensitivity across differences "in real life" requires skills we must learn and relearn.

We can learn so much just by listening to each other. I don't mean to sound like Mr. Rogers here, but we have so much to learn by listening to our own colleagues here within the building. Diversity is of course a work in progress, but it is real in many ways. Just counting the graduate program, we have people from over thirty-two countries. They speak at least as many languages, and hail from all continents in the world. This national diversity may be less pronounced in the undergraduate population, but I know that all our admissions processes involve a keen awareness of how new members of our community will enrich our collective culture.

Audi alteram partem. Listen to the other side. There is so much to listen to. So many people. So many faces. Smart, agile, engaged, concerned faces. People who want to make the world a better place. We all share that here within the Law Faculty. We may not always be up to the task but we try.

This listening isn't just about being a good citizen, or even a good member of a community. It's also about being a good lawyer. When I clerked for a judge, the first thing I learned in drafting opinions was to fairly summarize the arguments of the losing side, in language that fairly reflected the losing side's viewpoint. This is essential to demonstrate balance. The most effective briefs also fairly and accurately summarize counterpoints. Only by hearing the other side and repeating it back to them in language they recognize can you convey that you fully understand the point of view with which you disagree. Communicating that knowledge is essential to speaking authoritatively about one's own views.

Alas, all of this takes time. Today, in the world of smart phones and social

media, we are all doing so much. Even though we are in a rich, diverse community of smart folks, many of us are living our intellectual lives too fast. Processing too much information without delving into the complexities and that make the world's problems so intractable. I worry our debates inside the Law Faculty reflect the speed of the outside world too much, with so much heat and so little light. Nuance matters, especially in our legal education community. Let's listen, think, and talk and listen again. With nuance, care and empathy. Not just with all our brains but with all our hearts. We all mean to make the world a better place. Let's hold conversations with others in our community with whom we disagree that trust and faith present.

Elie Wiesel said "We must take sides. Neutrality helps the oppressor, never the victim." I first read this on the side of a Jewish Community Center, but I feel like it drives a lot of opinions within our community.

People want to the world to be a better place. We speak because we know that silence and neutrality may reinforce an oppressive or unjust status quo. When I was 20, in ACT UP we wore shirts emblazoned with "Silence=Death." At that time, death did await many gay men. Today, many in our community care about some of the shocking injustices happening in the world today, especially but not only in the Middle East. People of conscience cannot keep silent in the face of wrongdoing. But speaking without listening first also has a cost. We can say things that hurt others. We can opine where we know too little. We can enflame conversations in ways that tear our community apart.

Let us speak, but first let us listen. *Audi alteram partem*.

CYCLING BACK ON THE 15TH ANNUAL DUGALD CHRISTIE MEMORIAL COMMUNITY BIKE RIDE

Jessica Keer Li | 2L

As this year's edition of the Christie Bike Ride zoomed by, we can now look back onto the event in our rear-view mirrors with a huge sense of accomplishment and gratitude. The Dugald Christie Memorial Bike Ride is an annual event and a cherished McGill Law tradition organized by students of the faculty at the start of every school year. Law students founded the Ride back in 2009 to honour the legacy of the late McGill alumnus and Vancouver lawyer, Dugald Christie, who was an advocate for marginalized communities and an avid cycler. Indeed, Christie set-up many legal clinics in Vancouver and challenged the constitutionality of BC's legal service tax before the Supreme Court. In 2006, Christie began a cross-country cycling trip to raise awareness for access to justice issues in Canada. He planned to ride to Ottawa to convince decision-makers of the need for a justice system reform. Tragically, just four months into his mission, Christie's life was cut short when he was struck by a vehicle. His untimely death was a profound loss, but his dedication to the cause and his spirit continue to live on through events like the Christie Bike Ride.

Each year, the Bike Ride partners with a community organization that promotes access to justice. This year, all funds raised went to the legal clinic of The Refugee Centre, a Canadian non-profit based in Montreal. Their mission is to provide a sustainable structure of integration for refugees and immigrants in Canada. It is against this backdrop of advocacy that on Saturday, September 23rd, participants of the 15th edition of the Bike Ride gathered bright and early around the steps of Old Chancellor Day Hall, ready to hop onto their saddles for a 35 or a 50 KM loop that covered the Lachine Canal, Verdun Beach, Old Montreal, and South Shore. Finally, all bikers headed to Parc Lafontaine for a celebratory drink and refreshments.

Our gratitude goes out to all those who contributed to the success of this event. The Bike Ride would not have been possible without the support of the Alumni Student Engagement Fund (ASEF), my fellow organizers - Tom, Cassandra, and Tuviere - whose dedication and hard work were essential in bringing this event to life, Sweet Lee's for providing delicious sandwiches to fuel on the bikers, Aingaran and his roommate for committing to taxi duty in helping to transport the food, Prof. Alexander Pless' continued backing of the cause and assistance in providing bikes, and the student and alumni participants who made this day unforgettable. Last but not least, we also want to thank all the generous donors who contributed a remarkable $7,085 for the legal clinic of the Refugee Center. It's through the collective efforts and support of all these individuals and organizations that we can continue to pedal forward in the Christie Bike Ride's pursuit of access to justice.

NOT A NEW THING, BUT IN A NEW WAY

Matthew Dodd | 2L

The McGill chapter of the Runnymede Society hosted a talk on October 26 by American law professor Adrian Vermeule, entitled "Not a New Thing, but in a New Way" (in Latin, of course), to discuss his idea of "Common Good Constitutionalism." I would like to respond to what I perceive to be a problematic gap in the ideas expressed by Professor Vermeule, at least at his public talk and in my brief conversation with him the next day. Before starting, Professor Vermeule is far better read than I am; he couches his ideas in an academic language that hides their intent, and thus, this piece might seem abstract and complicated. Still, it is required to unpack what the Professor argues.

Professor Vermeule's ideas are innocuous in the abstract. Living in good faith, not harming others, and doing unto each what is due to them in justice are valuable tenants for a legal polity. "What's harmful for the hive is harmful for the bee." Limitations and corresponding responsibilities must accompany legal rights. However, the devil is in the details; what is due to an individual in justice and what harms an individual are subjective determinations on which reasonable minds can disagree, also a banal observation. Professor Vermeule was notably reluctant to add explicit substance to these values, instead referring us to work on defining the common good by thinkers he abstained from naming. That is the start of the problem. The Professor posits that classical principles of Roman law, upon which we should base constitutional interpretation, are uninterpretable outside their proper logical structure, meaning that external considerations, philosophical or otherwise, cannot be brought to bear on them and thus on constitutional interpretation. Any historical or contemporary political considerations that might inform an interpreter, or even the identity of the legal interpreter, is "orthogonal" to the interpretative exercise. The wave of chuckles that filled the room as the Professor disparagingly dismissed the question of 'who decides' the proper interpretation of the law from people who would have exercised a monopoly on decisional and interpretative power in epochs past was noteworthy.

Individuals, especially those with agendas, present their ideologies or preferred outcomes as the result of unbiased reason, as self-evident, to hide their true intent. No one is immune from this practice. But the question of who decides in law is crucial, not orthogonal, to understanding a given interpretation or judgement. Individuals work with what they possess in knowledge and experience: there is no legal reasoning free from the situational context that surrounds it or to which it is applied. That includes whatever 'classical' perspectives that inform the legal inquirer. For instance, what was due in justice to Rome's slaves? The answer will differ depending on who one asks and when they ask it.

The question of who decides in law is raised because it was utilized to brutely subject individuals without the power to change or influence it. Professor Vermeule explicitly accepts this as a fact of law: he believes that legislatures should be the final, authoritative voice on the contents of rights, that any rights not legislatively enacted are non-existent, and that where rights are constitutionally entrenched, the rights themselves should be understood as containing within themselves the power of the legislature to set their boundaries, regardless of the text. Whoever controls the legislature or sits on the judiciary, whoever decides, determines with impunity the boundaries of rights under principles immune from contemporary considerations.

Here is where I must mention that this event was the first in my law school experience that was majority white, majority male, and majority well-dressed white men. It also did not escape my attention that we were in the Newman Catholic Centre and not the faculty building itself and that many people I spoke to were, including Professor Vermeule, were Christian or Catholic. I bring this up because the Professor and the moderator at least both seemed skeptical about jurisprudence creating rights, referencing abortion, same-sex marriage, MAID, and the "right to be transgender."

As a husband in a same-sex marriage, with the intent to raise a family, the question of who decides the content of my rights is eminently material to whether a family like mine exists inside or outside the protection of the law. Any future decision to, for instance, strip me of my marriage by jurists firmly and unwaveringly convinced of its illegitimacy based on their interpretation of classical Roman law would be illegitimate because those principles are not the only consideration that informs the modern world, and because their interpretation of those principles will unavoidably be informed by considerations external to those principles. What is due to me and others like me[1] in justice cannot be determined independently of questions of history and politics.

No appeals to the venerable maxims of Roman legal theory can distract from the fact that any approach to legal interpretation, especially one framing itself as the "common good," cannot consider the question of who decides proper legal interpretation as merely "orthogonal" to the interpretative process. It is, in fact, constitutive of the interpretative process. As expressed by the Professor, legal decisions are authoritative and universally applicable; it is also wholly irrelevant who makes those decisions if they apply his conception of proper legal interpretation because, implicitly, those principles will lead to the legal result the Professor desires. It thus appears to me that "common-good constitutionalism" is a thinly veiled interpretative philosophy justifying the reimposition by theological adherents of an old and unpopular moral order framed now as the "common good." Not a new thing, but in a new way.

[1] And many others not like me.

DINNER BRINGS EVERYONE TOGETHER

McGill Law Supper Club

"Lili & Oli is closed tonight for a private event," read a sign on Notre Dame last Wednesday night.

The sounds of laughter and music greeted me as I opened the door, welcomed in out of the cold with a glass of sparkling wine and warm greetings from the team of Castel Franco's, the amazing culinary partners for McGill Supper Club's Second Annual Night of Food and Drink.

The Evening welcomed dinner guests ranging from 1L to 4L, many of whom started the night as strangers and left as new friends. Laptops closed and phone left in bags, the evening was a much welcomed break from discussions of classes and careers. Instead, the guests were able to connect over three courses and seemingly endless wine pairings, served masterfully by Castel Franco's team. The theme of the night was a Greek diner. Menu highlights included a flambéed kefakotyri cheese, greek meatballs, an overly abundant feta salad, and a flaky sweet kataifi for dessert.

McGill Supper Club would like to thank Castel Franco's for their ongoing collaboration, Lili & Oli for their beautiful space, as well as ASEF and the LSA for providing event funding.

If you missed out, be sure to follow @souperavecnous for future events and updates.

THE HONOURABLE G. I. SMITH MEMORIAL TRUST

The G. I. Smith Memorial Trust is pleased to offer the G. I. Smith Memorial Award, a $2,500 bursary for a deserving Nova Scotia law student. The award honours the memory of Truro lawyer "Ike" Smith, a member of the Nova Scotia Bar for 50 years. He was MLA for Colchester County from 1949 until 1974, serving in several Cabinet positions in the governments of Robert Stanfield, and succeeding him as Premier of Nova Scotia from 1967 until 1970. He was appointed to the Senate in 1975 and served until his death in 1982.

Applicants must be full time law students or articled clerks from Nova Scotia who have satisfactorily completed at least one (1) year of study at a recognized law school and be continuing their legal education, this includes second year law students, third year law students, articled clerks and students engaged in graduate law studies.

Applicants must have demonstrated significant activity in the areas of public and community affairs, sports, or arts and entertainment, and have demonstrated interest in bettering themselves, their communities and their province through professional and volunteer efforts.

Applicants must exhibit financial need.

Applicants must have shown a high level of academic competence.

Applications (including academic records and two reference letters) should be sent to:

Alison MacLean, Chair
G. I. Smith Memorial Trust
c/o Patterson Law
10 Church Street
Truro, Nova Scotia, B2N 3Z6

or

sbenoit@pattersonlaw.ca

The deadline for the receipt of application is January 26, 2024.

4135-5389-5725

WORD OF THE WEEK

Why You Should Practice Gratitude

I am aware that Thanksgiving is already behind us, but in this stressful season, I recently found myself trying to accomplish as much as I could without acknowledging everything that I have at my disposal. Unsurprisingly, most of my peers I've encountered have expressed the same feeling. Whenever there is a buildup of tasks and expectations placed upon us, it is easy to assess our self-efficacy based on our performance in meeting these expectations. The reality is that boiling down our intrinsic value to external environments like school blinds us and makes us unaware of the positive things we have in our lives. Practicing gratitude daily, through journaling or any method one deems adequate does wonders, not only physically but also psychologically. This is not to get too philosophical, but I can guarantee that after reading this, you will be convinced to count your blessings more often.

Psychological Benefits

The effects that gratitude has on the human body have been under study for several years, but researchers demonstrated increased interest in studying the topic during the COVID-19 pandemic.[1] These 2 years of quarantine put things into perspective and made everyone realize how much we took for granted. From basic social interactions to attending concert venues and stadiums, being isolated for a long period of time took a toll on most people's mental health and exposed how unappreciative society was. So where do the benefits of gratitude come into play?

What came out of the research conducted during the pandemic was that those who had a positive outlook at the onset of the health crisis decreased their chances of experiencing symptoms of anxiety and depression.[2] Expressing gratitude implies showing care to oneself and to others. More importantly, it includes focusing on the aspects of life which we can control, instead of uncontrollable circumstances. Considering that depression and anxiety often result from dissatisfaction over the negative aspects of life, it is not surprising that adopting a thankful attitude reduces the likelihood of going through these issues.[3]

Research also shows that being grateful motivates people to better outcomes.[4] For instance, if a person on a weight loss journey acknowledges their progress and gives themselves grace for the results, then the individual is more likely to adopt healthy habits to stay consistent with their journey. Exercising gratitude also favours prosocial behaviours which can, in turn, increase the social support a person receives, further motivating them to reach their goals.[5]

Relation to the Legal Field

Year after year, various reports illustrate how lawyers are among the most depressed professionals.[6] The statistics concerning mental health are also not favourable when it comes to law students. Namely, not only are they at risk of experiencing tremendous anxiety during their studies but it was also discovered that they are more likely to resort to substance use to cope with stress and unending expectations.[7] In any case, both legal practitioners and current law students consistently report feeling overwhelmed by the pressure to succeed in a naturally competitive environment.

While I am not bold enough to claim that practicing gratitude is enough to deal with the issues listed above, I believe that promoting it more in law school and in legal practice is a good first step. Achieving academic excellence is a very legitimate goal, but always ask yourself what your initial purpose was upon coming to law school. Was it to meet like-minded people? Was it to use a quote you saw in *Suits*, only to realize that law school is nothing like TV? Once you've answered the first question, ask yourself if you are still on track to fulfill that purpose or if you are simply going through the motions, just like I was a few days ago, trying to meet every deadline. Reflecting on your purpose will allow you to be grateful for what you've managed to accomplish on your journey and will allow you to figure out the steps for you to achieve your aspirations.

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[1] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9281297/.

[2] *Ibid.*

[3] https://adaa.org/learn-from-us/from-the-experts/blog-posts/consumer/gratitude-mental-health-game-changer.

[4] *Supra* note 1.

[5] *Ibid.*

[6] https://www.cba.org/Publications-Resources/CBA-Practice-Link/Work-Life-Balance/Health-Wellness/Lawyers-and-Depression-Three-Case-Studies?lang=fr-ca.

[7] https://www.enjuris.com/students/law-students-substance-abuse/

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